


FORM OF ORDER SHEET

Court of _____

Appeal No. 761/2024

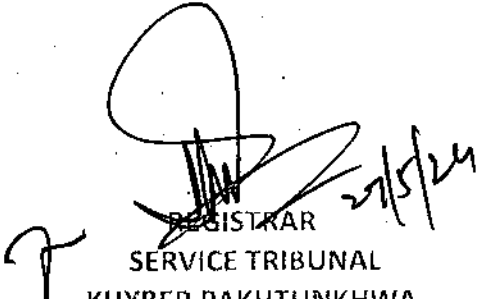
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/06/2024	<p>The appeal of Mr. Muhammad Nouman resubmitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 11.06.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Muhammad Nouman received today i.e. on 24.05.2024 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged /marked with annexures mark.
- 3- Affidavit is not attested by the Oath Commissioner.
- 4- Annexures/documents attached with the appeal are unattested.
- 5- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 73 /Inst;/2024/KPST,

Dt. 27/05/2024.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Fazal Shah Mohmand Adv.
High Court Peshawar.

Respected Sir,

Re submitted after removal
of the objections.

Dated 07/05/2024



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 761/2024

Muhammad Nouman. Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa & another. Respondents

I N D E X

S #.	Description of Documents	Annex	Pages
1.	Service Appeal with Affidavit		1-5
2.	Copy of Letter of Explanation & Reply	A & B	6-7
3.	Copy of Show Cause Notice & Reply	C & D	8-13
4.	Copy of Notification dated 26-02-2024	E	14
5.	Copy of Departmental Appeal	F	15-16
6.	Copy of WhatsApp Messages	G	17
7.	Vakalat Nama		18

Dated:- 24-05-2024

Through

Appellant


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

OFFICE:-

Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email:-

fazalshahmohmand@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 761 /2024

Khyber Pakhtunkhwa Service Tribunal
 Peshawar

Case No. 12978

Date 24-05-2024

Muhammad Nouman, Budget & Account Officer (BPS-17), Advocate
 General Officer, Khyber Pakhtunkhwa, Peshawar.

.....Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Law, Parliamentary Affairs and Human Rights Department, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE NOTIFICATION DATED 26-02-2024 OF RESPONDENT NO.1 WHEREBY THE APPELLANT HAS BEEN AWARDED THE PENALTY OF REDUCTION TO ONE GRADE LOWER POST AND WITH-HOLDING OF TWO INCREMENTS FOR ONE YEAR" AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT HAS NOT BEEN RESPONDED DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar

PRAYER:-

On acceptance of this appeal, the impugned Notification dated 26-02-2024, may kindly be set aside and the appellant may kindly be ordered to be restored to his previous position w.e.f. 26-02-2024, with all back benefits.

Respectfully Submitted:-

1. That the appellant initially joined the office of Advocate General, Khyber Pakhtunkhwa, on 01-08-1996, was **selected** as Assistant (BPS-16) on 29-01-2009 and was promoted as Superintendent (BPS-17) on 22-05-2015 and was lastly horizontally promoted to the post of Budget & Account Officer (BPS-17) on 09-05-2023; since appointment, the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.
2. That Explanation of the appellant was called by respondent No 2 vide Letter dated 18-08-2023, regarding an audio message circulating in social media through WhatsApp wherein proceedings, discussions and information of Scrutiny Committee meeting dated 16-08-2023 for filing appeals have been communicated, the appellant replied the same refuting the allegations and bringing the true facts and circumstances in detail. **(Copy of Letter of Explanation & Reply therein is enclosed as Annexure A & B).**
3. That thereafter, Show Cause Notice was issued to the appellant by respondent No 1 vide Letter dated 04-10-2023 which was also replied in detail explaining the true position. **(Copy of Show Cause Notice & Reply therein is enclosed as Annexure C & D).**
4. That finally the appellant was awarded the penalty of "Reeducation to one grade lower post and with-holding of two increments for one year" vide Notification dated 26-02-2024. **(Copy of Notification dated 26-02-2024 is enclosed as Annexure E).**
5. That against the impugned Notification, the appellant filed departmental appeal on 28-02-2024, which has not been responded so far despite the lapse of more than the statutory period of ninety days. **(Copy of Departmental Appeal is enclosed as Annexure F).**

6. That the impugned Notification dated 26-02-2024 of respondent No 1 is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUND S:-

- A. That the impugned Notification dated 26-02-2024, is illegal, unlawful, without lawful authority and void ab-initio.
- B. That mandatory provisions of law and rules have been badly violated by the respondents and the appellant has not been treated according to law and rules in violation of Article 4, 10-A and 25 of the Constitution and law of the land.
- C. That the allegations leveled against the appellant are false and incorrect, as the same were never substantiated.
- D. That the contents of the message also transpire that there is no illegality or irregularity rather only information was sought and there is nothing more, so the appellant is required to be restored to his previous position.
- E. That no inquiry, mandatory in case of allegations, has been conducted in the matter to have found out the true facts and circumstances, hence the impugned Notification is liable to be set at naught on this score alone.
- F. That no Charge Sheet was issued to the appellant thus no charge was farmed against the appellant, thus too the impugned Notification is not tenable in the eyes of law.
- G. That the authenticity of the message has not been established, no evidence has been collected in this respect, nor the same has been subjected to analysis, thus the entire action is based on surmises and conjectures.
- H. That the allegations of leaking information through WhatsApp is totally false and unfounded, as the appellant during his long 28

years' service has always kept the secrets, so far the alleged message is concerned, the same was already in knowledge of the then Law Officer and was aware about the same so the allegations of leaking information is not substantiated. **(Copy of WhatsApp Messages is enclosed as Annexure G).**


- I. That it is further to note that the decisions/proceedings of Scrutiny/Fitness Committee meeting are recorded in the form of Minutes which are never confidential, many officers from different departments attend the same and being legal matter the same is forwarded to all relevant departments for further necessary action, thus never remains secret nor the same is confidential. It is also added that no allegations of any sort of illegalities, favor, disfavor or malafide etc. have been leveled against the appellant.
- J. That the voice message of Ex Law Officer and the reply therein depicts that the Law Officer had got full information of the matter from the Secretary Food, Department Khyber Pakhtunkhwa, hence the appellant had been made to suffer for no fault.
- K. That even otherwise no law and rules have been violated by the appellant, nor any law and rules are there in this respect, So the impugned Notification is not tenable.
- L. That no loss of any sort has been caused to the Govt., thus too the impugned Notification is liable to be set aside.
- M. That the appellant has been condemned unheard and he was not afforded opportunity of personal hearing.
- N. That the appellant has about 28 years of service with unblemished service record.
- O. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:- 24.05.2024

Through



Appellant

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

Baseer Ahmad Shah

&



Ibad ur Rehman Khalil
Advocates Peshawar

AFFIDAVIT

I, Muhammad Nouman, Budget & Account Officer (BPS-17), Advocate General Officer, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



DEPONENT



(6) And A

11036-38

**GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS
DEPARTMENT**

NO.SO(E)(LD)5-9(1)/2023/PF
Dated: 18th August, 2023

To,

Muhammad Nouman,
Budget and Account Officer,
Advocate General Office, Peshawar

Subject: **EXPLANATION**

Whereas an audio message is circulating in social media, through WhatsApp, wherein proceedings, discussions and information of Scrutiny Committee meeting, dated 16-08-2023 for filing appeals have been communicated.

And whereas, confidentiality of official meetings is paramount to maintaining the integrity of Government Departments and decision-making process. Any unauthorized disclosure of such information not only undermines trust within organizations/departments but also has potential to negatively impact Government reputation and effectiveness of work.

And whereas, there is no shadow of doubt that the voice in the audio message is yours, which makes you liable of misconduct as defined in Rule 2(I)(ii) of Government Servants (Efficiency & Discipline) Rules, 2011, read-with Rule 21 of Government of Khyber Pakhtunkhwa (Conduct) Rules, 1987 i.e; "*Unauthorized communication of official documents or information*" and Rule 2(I)(iii) of Government Servants (Efficiency & Discipline) Rules, 2011, i.e; "*Unbecoming of Government servant and a gentleman*".

Apropos, you are directed to explain your position in the matter within three days positively failing which disciplinary proceedings shall be initiated against you under the Khyber Pakhtunkhwa Govt. Servants (E&D), Rules, 2011.


(MUHAMMAD BILAL)
Section Officer (Estab)

Ends: No. & Date Even:

Copy forwarded to the:-

1. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
2. PS to Advocate General, Khyber Pakhtunkhwa.

Section Officer (Estab)

7

B

To

Mr. Muhammad Bilal,
Section Officer (Estab),
Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department.

Subject: REPLY / EXPLANATION

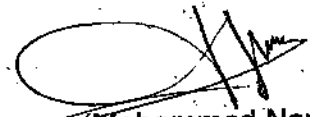
Respected Sir,

Please refer to your letter No. SOE(LD)5-9(1)/2023/PF, dated 19.08.2023 on the subject noted above.

In this regard, it is stated that now-a-days I am on state of depression and anxiety. I am seriously ill. I am suffering from sciatica. At times bleeding from my nose is contentiously coming. Due to these illness, I am taking high dose of medicine and pain killers. At the time when the information regarding the case was sought from me, I was unconscious due to taking high dose of medicine. It is very important to mention here that when Mr. Qudratullah Gandapur, Ex-Assistant Advocate General, D.I.Khan required information regarding the case, I could not understand due to influence of high dose of medicine rather than anything else. It was neither intentional nor deliberate. I have rendered more than 27-years unblemished service. I performed my duties to the entire satisfaction of my superiors.

It is, therefore, most respectfully prayed that in the light of aforementioned facts, I may kindly be exonerated this time. I shall be careful in future.

Yours faithfully,



(Mohammad Noman)
Budget & Accounts Officer,
Advocate General Office,
Khyber Pakhtunkhwa, Peshawar

Dated: 22/8/23



GOVERNMENT OF KHYBER PAKHTUNKHWA LAW,
PARLIAMENTARY AFFAIRS & HUMAN RIGHTS
DEPARTMENT

(8) Annex C

14276-75

CONFIDENTIAL / MOST IMMEDIATE

NO.SO(E)(LD)5-9(1)/2023/PF
Dated Peshawar the 04th October, 2023

To

Muhammad Nouman,
Budget and Account Officer (BPS-17),
Advocate General Office, Peshawar

Subject: **SHOW CAUSE NOTICE**

I am directed to refer to the subject noted above and to enclose herewith two copies of Show Cause Notice duly signed by competent authority containing the tentative major penalty of "Compulsory Retirement" with the directions that one copy of Show Cause Notice may be returned to this Department after having signed as a token of receipt.

Encl: As Above


(MUHAMMAD BILAL)
Section Officer (Estab)

Endst: of Even No. & Date:

Copy forwarded to the: -

1. PS to Secretary Law Parliamentary Affairs & Human Rights Department.
2. PS to Secretary Establishment Department.

Section Officer (Estab)

9

SHOW CAUSE NOTICE

I, Nadeem Aslam Chaudhary, Chief Secretary Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Nauman, Budget and Accounts Officer (BPS-17) as follows:

- i. That you while being posted as Budget and Accounts Officer (BPS-17), office of the Advocate General, Khyber Pakhtunkhwa circulated an audio message on social media through WhatsApp, without any lawful authority, wherein proceedings, discussion and information of Scrutiny Committee's meeting held on 16-08-2023 for filing appeals/CPLA have been communicated/disclosed.

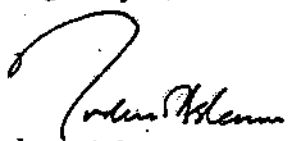
I am satisfied that you have committed the above act/omission constituting "misconduct" within the meaning of Rule 2(l) (i) (ii) & (iii) and Rule 3 (b) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have thus rendered yourself liable to be proceeded against under the rules ibid.

2. In terms of Rule 5 (1) (a) read with Rule 7 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, I, as Competent Authority, dispense with the inquiry and serve you with the Show Cause Notice.

3. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of Compulsory Retirement under Rule-4 of the said rules.

4. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within ten days or not more than fourteen days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.


(Nadeem Aslam Chaudhary)
Chief Secretary, Khyber Pakhtunkhwa

Mr. Muhammad Nauman
Budget & Accounts Officer (BS-17)
Advocate General Office, Khyber Pakhtunkhwa

10 D

1

To

8436-37
13-10
23

The Worthy Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Through: Worthy Secretary, Law Parliamentary Affairs and Human Rights
Department Peshawar.

Subject: Reply to Show Cause Notice.

Respected Sir,

1. The undersigned joined the service of the office of the Advocate General on 01.08.1996. He got Selected to the post of Assistant (BPS-16) on 29.01.2009 after rendering 13 years spotless and efficient service. On account of his upto-the-mark-performance, he was again granted promotion to the post of Superintendent (BPS-17) on 22.05.2015 and lastly he was horizontally promoted to the post of Budget & Accounts Officer (BPS-17) on 09.05.2023. Thus the undersigned has *27 years impeccable service record at his credit*. It is also *emphatically submitted that during the long service, not a single explanation has ever been called of the undersigned let alone any disciplinary action or any penalty muchless minor one so far* during nearly three decades. The impugned Show Cause Notice and the proposed un-ceremonial cessation of service is sudden bolt from the blue.
2. The allegation in the show cause notice is absolutely not an intentional act by the undersigned, rather the undersigned always tried his level best to keep the honor of his post and his esteemed department, more over a message via whatsapp requested for by an ex-Law officer of the office of the Advocate General has been allegedly delivered, but the same was already in the knowledge of ex law officer and he was aware of the factual position of proceedings as the entire proceeding of the fitness committee such as discussions, opinion etc have been circulated through social media website for some sinister purpose.
3. The fact is that proceedings of the Fitness Committee are not confidential in nature being attended by numerous officers of various Departments in order to arrive at a conclusion. Similarly, being a legal matter, there is neither any need to keep it confidential nor there is any law, rules and regulations that the proceedings of the Fitness Committee must be kept highly encrypted.
4. The transcript of the voice message of the request of the ex-Law Officer of the Advocate General office and the reply of the undersigned thereto is enclosed as (Marked-A). The perusal of the transcript transpires that the ex-Law Officer of the Advocate General Office had got 100% information from the worthy Secretary Foods that the case has been found fit for CPLA. The specific reference by the ex-Law Officer to this fact is reproduced as below:-

مجھے تو بہت یقین ہے کیونکہ مجھے سیکرٹری نے کہا تھا کہ ہم
جا رہے ہیں سپریم کورٹ کیونکہ سیکرٹری فوڈز میرے گاؤں کا ہے۔
اور وزیر ٹرانسپورٹ سے تعلق رکھتا ہے۔ اور اُس نے یہ بات مجھے کنفرم
کی کہ اس میں میٹنگ بھی ہوئی ہے اور کیس فٹ بھی ہوا ہے۔


Thus the worthy *Secretary Foods himself has spilt the beans* regarding the fitness of the case to the ex-Law Officer of the Advocate General Office. The undersigned has conveyed the same position to him.

5. It has become a settled law firmly enunciated by the Supreme Court of Pakistan and scrupulously followed by all High Courts of the country as well as Service Tribunals throughout Pakistan particularly after the introduction of Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 that in cases of awarding major punishment, regular inquiry is a must. The law laid down by the Supreme Court of Pakistan is binding on all organs of the State under Article-189; 190 read with Article-5(2) of the Constitution of the Islamic Republic of Pakistan, 1973. In the case in hand, the dispensation of inquiry appears to be an affront to the dicta of Supreme Court of Pakistan and mandate of the Constitution.
6. On principle of proportionality, there is no equation between the so called charge leveled against the undersigned and the proposed penalty. The major penalty in a case of mere conveying information not being an illegal one to a person already fully in the knowledge from the very officer who asserts confidentiality of it, is exceedingly exaggerated, excessive and does not commensurate with the so called allegation.
7. The undersigned consumed the prime stage of his life in the service with stainless record and at the moment is the lone bread-earner of a large family including minor School going kids. The blameworthy end of his service career after such long service on the basis of an allegation which is neither grave in nature nor culpable as such is an act which is against the principle of justice, fair-play and good consciences.

The undersigned requests for personal hearing.

It is, therefore, requested to kindly withdraw the Show Cause Notice and exonerate the undersigned from the charge/allegation leveled against him.

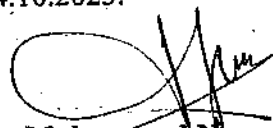
Yours faithfully,


Muhammad Nauman,
Budget & Accounts Officer,
Advocate General's office
Khyber Pakhtunkhwa.

Dated: 13/10/2023

Copy forwarded to:

1. Muhammad Bilal Section Officer(Estab:) Govt. of Khyber Pakhtunkhwa, Law Parliamentary Department, Peshawar, with reference to his letter No. So(E)(LD)5-9(1)2023/PF/14276-78, dated 04.10.2023.


Muhammad Nauman,
Budget & Accounts Officer,
Advocate General's office
Khyber Pakhtunkhwa.

CONFIDENTIAL



GOVERNMENT OF KHYBERPAKHTUNKHWA
AGRICULTURE DEPARTMENT

SOE-I(AD)/General/Misc/P.H/M.Nauman/Advocate General Office 123/864
Dated Peshawar, the 07th November, 2023

To

Mr. Muhammad Nauman,
Budget & Account Officer,
Office of Advocate General, Khyber Pakhtunkhwa, Peshawar.

SUBJECT: - DISCIPLINARY PROCEEDING AGAINST MUHAMMAD NOUMAN,
BUDGET & ACCOUNT OFFICER (BPS-17), ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA.
PERSONAL HEARING

I am directed to refer to the subject noted above and to convey that Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture Department is nominated as Hearing Officer by the competent authority, therefore, you may appear before the Hearing Officer on 13.11.2023 at 12.00 PM in the Office of Secretary Agriculture Department.

SECTION OFFICER (ESTAB)

Endst. of Even No. & Date.

Copy forwarded to the:

1. Section Officer (Estab), Law Department, Khyber Pakhtunkhwa, Peshawar may attend the office Secretary Agriculture Department on the above-mentioned date & time with all the requisite documents.
2. P.S to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
3. P.A to Deputy Secretary (Admin), Agriculture Department, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ESTAB)

13

To

The Section Officer Estt-I,
Government of Khyber Pakhtunkhwa
Agriculture Department, Peshawar.

Subject:-

**DISCIPLINARY PROCEEDING AGAISNT MUHAMMAD NOMAN,
BUDGET & ACCOUNTS OFFICER (BPS-17), ADVOCATE GENERAL
OFFICE KHYBER PAKHTUNKHWA.**

Dear Sir,

It is requested that the reply dated 13-10-2023 of my Show Cause Notice may kindly be considered as my personal hearing statement and oblige.



(MUHAMMAD NOMAN)
Budget & Accounts Officer,
Advocate-General's Office Khyber
Pakhtunkhwa, Peshawar.



(14) E

**GOVERNMENT OF KHYBER PAKHTUNKHWA LAW,
PARLIAMENTARY AFFAIRS & HUMAN RIGHTS
DEPARTMENT**

Dated Peshawar the February 26, 2024

NOTIFICATION

NO.SO(E)(LD)5-9(1)/2023/PF **WHEREAS**, Muhammad Nouman, Budget and Account Officer (BPS-17), Advocate General Office, circulated an audio message in social media, through WhatsApp, regarding proceedings discussions and information of Scrutiny Committee meeting dated 16.08.2023 for filing CPLA by the Government Departments. Explanation was called from the officer concerned on 18-08-2023 to explain his position. The officer concerned replied the explanation on 22-08-2023 which was examined and found unsatisfactory.

AND WHEREAS, a direct Show Cause notice was served to Muhammad Nouman, Budget and Account Officer (BPS-17) under rule 5(1)(a) of Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules, 2011 and a penalty of compulsory retirement was tentatively imposed.

AND WHEREAS, in response to the said Show Cause Notice, the officer concerned submitted his written reply and requested that an opportunity of personal hearing may be provided to him;

AND WHEREAS, the Competent Authority afforded the opportunity of personal hearing to the accused officer as per his request which were not found satisfactory;

NOW THEREFORE, the Chief Secretary, Khyber Pakhtunkhwa being competent authority under rule (2)(1)(f) of the rules ibid has been pleased to impose the minor penalty of "**Reduction to one grade lower post and withholding of two increments for a period of one year**" upon Muhammad Nouman, Budget and Account Officer (BPS-17), Advocate General Office, in terms of clauses (a)(ii) and (b)(i) of rule 4(1) of the rules ibid with immediate effect.

**CHIEF SECRETARY,
KHYBER PAKHTUNKHWA**

Endst: of even No. & date. / 2676-82

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 3- PS to Advocate General, Khyber Pakhtunkhwa.
- 4- PS to Secretary, Establishment Department Khyber, Pakhtunkhwa.
- 5- PS to Secretary, Law Department, Khyber Pakhtunkhwa.
- 6- The Manager, Govt Printing Press, Peshawar.
- 7- Officer concerned.

SECTION OFFICER (ESTAB)

15

F

To

The worthy Chief Minister,
Khyber Pakhtunkhwa.

Subject: Departmental Appeal against the Notification dated 26.02.2024 whereby the appellant has been reduced to one grade lower post alongwith withholding of two increments for a period of one year.

Respected Sir,

With due respect I have the honour to submit this departmental appeal for your kind consideration and favourable action on the following facts and grounds:

1. That the appellant joined the service of the office of the Advocate General on 01.08.1996. He got selected to the post of Assistant (BPS-16) on 29.01.2009 after rendering 13 year spotless and efficient service. On account of his upto the marked performance, the appellant was again granted promotion to the post of Superintendent (BPS-17) on 22.05.2015 and lastly he was horizontally promoted to the post of Budget & Account Officer (BPS-17) on 09.05.2023. Thus the appellant has 27 years impeccable service record at his credit. It is also emphatically submitted that during the long service not a single explanation has ever been called of the appellant let alone any disciplinary action or any penalty muchless minor one so far nearly during three decades.
2. That the appellant was issued a Show Cause Notice alleging therein circulation of an audio message in social media through WhatsApp regarding proceedings, discussions and information of scrutiny Committee meeting dated 16.08.2023 for filing C.P.L.A by the Government Departments. Since the Show Cause Notice was based upon misinformation, therefore, appellant replied to the Show Cause Notice thereby he explained his position.
3. That vide impugned Notification dated 26.02.2024, the appellant has been imposed upon the punishment of reduction to one grade lower post and withholding of two increments for a period of one year in terms of clauses (a)(ii) and (b)(i) of Rule-4(1) of the Govt. of KP Efficiency & Discipline Rules, 2011.
4. That being aggrieved by the Notification ibid, appellant prefers this Departmental Appeal before your good-self inter-alia on the following grounds:-

Grounds:

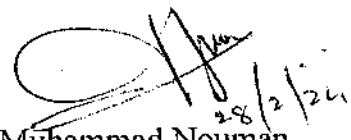
- A. That the appellant has longstanding 27 year spotless service record and it is a matter of record that during such long service there is no complaint whatsoever against the appellant and therefore, his entire service is free of any stain. In this view of the matter, the imposition of the impugned

punishment is unfair and unjust.

- B. That the allegation of leaking out the information is totally misplaced inasmuch as the appellant has always tried his level best to keep the secrets of the Department. The message via WhatsApp requested by an ex-Law Officer of the office of the Advocate General was allegedly delivered but the important aspect of the matter is that the same was already in the knowledge of ex-Law Officer and he was aware of the factual position of the proceedings as the entire proceedings of Fitness Committee such as discussion, opinion etc. were circulated through social media website for some sinister purpose.
- C. That the proceedings of the Fitness Committee are not confidential in nature being attended by numerous officers of various Departments in order to arrive at a conclusion. Similarly, being a legal matter, there is neither any need to keep it confidential nor there is any law, rules and regulations that the proceedings of the Fitness Committee must be kept encrypted.
- D. That the transcript of the voice message of the request of the ex-Law Officer of the Advocate General Office and the reply of the undersigned thereto transpires that the ex-Law Officer of the office of the Advocate General had got full information regarding the subject matter from the very worthy Secretary Food that the case had been found fit for C.P.L.A.
- E. That it is a settled law that in cases of awarding major punishment, regular inquiry is must. however, in the instant case, no inquiry muchless regular has been conducted which is violative of the series of judgments passed by the Hon'ble Supreme Court of Pakistan as well as is against Article-10A of the Constitution of Islamic Republic of Pakistan, 1973.
- F. That the issue involved controvertial facts which could only be resolved through regular inquiry, however, the inquiry was not held, therefore, the appellant was highly prejudiced.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the impugned Notification dated 26.02.2024 may graciously be set aside and the appellant be restored to his position w.e.f: 26.02.2024 with all back benefits.

Yours faithfully,



Muhammad Nouman,
Budget & Account Officer
(BPS-17)
Advocate General Office,
Khyber Pakhtunkhwa,
Peshawar

Dated: 28/02/2024

قدرت گنڈاپور، سابقہ اسٹنٹ ایڈووکیٹ جنرل کا وائس ایپ پیغام

السلام علیکم انعمان امید ہے کہ آپ خیریت سے ہوں گے۔ ایک درخواست ہے جو کہ میں یہاں پشاور آیا تھا اور سیکرٹری فوڈ سے میں نے ملاقات کی۔ یہاں میرے ایک دوست، راشد خان، اسٹنٹ فوڈ کنٹرولر ہے، اس کا ایک مسئلہ تھا۔ اس کو کسی اور جگہ ٹرانسفر کیا گیا تھا اور اس کی جگہ ایک جوئیر ملازم کو تعینات کیا تھا۔ اس نے ٹرانسفر آرڈر کو سروس ٹریبونل میں چیلنج کیا تھا اور ٹریبونل نے اس کے حق میں فیصلہ دیا تھا۔ مجھے پھر راشد خان نے درخواست کی کہ آپ سیکرٹری فوڈ کے ساتھ ملاقات کرو۔ میں نے سیکرٹری فوڈ سے ملاقات کی اور اس کو بتایا کہ راشد خان کی ٹرانسفر کینسل ہوئی ہے اور برائے مہربانی اسکی دوبارہ اپنی جگہ پوسٹنگ کی جائے اور ٹریبونل کا آرڈر ایمپلیمینٹ کیا جائے۔ تو سیکرٹری فوڈ صاحب نے مجھے کہا کہ اس پر ہم نے لیٹر کیا ہے کہ اس آرڈر کے خلاف ہم CPLA فائل کر رہے ہیں۔ اور اس سلسلے میں لاء ڈیپارٹمنٹ میں میٹنگ ہوئی ہے۔ اور آپ (راشد خان) کے خلاف CPLA پر جا رہے ہیں۔ تو راشد خان کو پھر بھی میری بات پر یقین نہیں آ رہا تھا کہ یہ لوگ میرے خلاف CPLA پر جا رہے ہیں۔ تو راشد خان نے مجھ سے درخواست کی کہ آپ (قدرت اللہ، اسٹنٹ ایڈووکیٹ جنرل) نے ایڈووکیٹ جنرل آفس میں بہت عرصہ گزارا ہے۔ تو برائے مہربانی آپ وہاں سے معلومات کریں کہ میرا کیس لاء ڈیپارٹمنٹ میں FIT ہوا ہے یا نہیں۔ مجھے تو بہت یقین ہے کیونکہ مجھے سیکرٹری نے کہا تھا کہ ہم جا رہے ہیں سپریم کورٹ کیوں کہ سیکرٹری فوڈ میرے گاؤں کا ہے۔ اور وزیر ٹرائب سے تعلق رکھتا ہے۔ اور اس نے یہ بات مجھے کنفرم کی کہ اس میں میٹنگ بھی ہوئی ہے۔ اور یہ کیس FIT بھی ہوا ہے۔ لیکن پھر بھی راشد خان کہتا ہے کہ مہربانی کر کے آپ پھر بھی آفس سے معلومات کر لے تو آپ کی بہت مہربانی ہوگی۔ میں آپ کو بہت شکر گزار ہوں گا۔ کہ آپ صرف مجھے یہ کنفرم کر دے کہ یہ کیس FIT ہے۔ کیوں کہ میں تو کنفرم ہوں اس پر کہ یہ کیس FIT ہوا ہے CPLA کے لیے۔ لیکن راشد خان یقین نہیں کرتا ہے۔ آپ یہ پتہ کر لے کہ یہ کیس FIT ہوا ہے اور مجھے انفارم کرے تو میں راشد خان کو بتا دوں گا تاکہ وہ اپنا ڈیفنس کرے سپریم کورٹ میں اپنا وکیل مقرر کرے اور اپنا ڈیفنس کرے اپنے کیس میں۔ اور مہربانی ہوگی کہ مجھے صرف کنفرمیشن دے دیں کیوں کہ مجھے تو معلوم ہے کہ کیس فٹ ہوا ہے۔ میں آپ کے جواب کے انتظار میں ہوں گا۔ بہت بہت مہربانی۔ شکریہ۔

بعدالت

شیر پختونخوا کروس سٹرائیوٹل شاپ

موزخہ
مقدمہ
دعویٰ
جرم

Service Appeal

محمد لغمان بنام گورنمنٹ وینڈر
2022ء پنجاب

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام شاور کیلئے فصل 173 (A) عبادی احکام کے تحت لغمان بنام گورنمنٹ وینڈر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا گیا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر حالت فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانشہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 24
ماہ 05 سال 20

العبد واہ العبد
بمقام شاور کے لئے منظور ہے۔

Attest & Accepted
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Shaur